

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

JAN 31 2003

Gerald A. DeCiccio, CFO
GTC Telecom
3151 Airway Ave., Suite P-3
Costa Mesa, California 92626

Re: Request for Waiver of FY 2001 and FY
2002 Regulatory Fees
Fee Control No. 00000RROG-02-101

Dear Mr. DeCiccio:

This is in response to your request to waive and refund payment of GTC Telecom's (GTC) Fiscal Year (FY) 2001 regulatory fee of \$7,164.00 and FY 2002 regulatory fee of \$13,928.23. Our records indicate that you have paid these fees.

You argue that the regulatory fees will be a financial hardship because GTC has not yet made a profit and its net income less depreciation continues to be negative. In support, you submit consolidated balance sheets, consolidated statements of operations, consolidated statements of cash flows, and *summary* compensation tables for GTC and its subsidiaries for years ending June 30, 2001 and 2002 (and in the case of the compensation table for years ending June 30, 2000 and June 30, 1999 as well).

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship on a licensee. Thus, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case **of** financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the mount **of** their compensation, or similar information.

10 FCC Rcd at 12761-12762.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, and payments to principals reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

For the Year ended June 30, 2001, GTC's consolidated statements of cash flow show a net loss of \$2,832,258 and depreciation and amortization of \$220,390. GTC's *summary* compensation table shows total compensation to principals for 2001 as being \$1,299,116. Because GTC's net loss for FY 2001 (\$2,832,258) is greater than the sum of depreciation and amortization and total compensation to principals (\$1,519,506), we find that you present a compelling case of financial hardship for 2001 and grant your request for waiver of GTC's regulatory fee for FY 2001. Accordingly, we will refund your payment of \$7,164.00 as soon as practicable.

For 2002, GTC's consolidated statements of cash flow show a net loss of \$1,311,667 and depreciation and amortization of \$237,035. GTC's *summary* compensation table shows total compensation to principals for 2002 as being \$2,045,165. Although GTC showed a net loss for 2002 (\$1,311,667), this loss resulted from the combination of the deductions for depreciation and amortization and total compensation paid to principals (\$2,282,200). **Thus**, GTC had money **from** its deductions for depreciation and amortization and its payments to principals **from** which it could pay the fee. In these circumstances, we find that you do not present a compelling case of financial hardship for FY 2002. Accordingly, we deny your request for waiver and refund of GTC's regulatory fee of \$13,928.32 for FY 2002. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer



00000 R206-02-101

Leading the way in Telecommunications

September 24, 2002

Federal communications commission
445 12th St SW
Attn: Managing Director
Room 1A625
Washington DC 20554

Atty: Regulatory Fee Waiver Reduction Request

To Whom It May Concern:

I am writing to request a hardship waiver of GTC Telecom's 2002 **FCC Regulatory Fee of \$13,928.32** and 2001 **FCC Regulatory Fee of \$7,164.00**. As requested, I have enclosed GTC Telecom financials for the **last 2 years**. **As** a public company, GTC Telecom has not yet made a profit and our Net Income less Depreciation continues to be negative. GTC Telecom has not paid any dividends since our inception.

As requested, I have enclosed the compensation for GTC Telecom's executive employees from our public filings.

Please contact me regarding any relevant information pertaining to this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald A. DeCiccio", written over a horizontal line.

Gerald A. DeCiccio
CFO
GTC Telecom